

### Remarks

Claims 1, 3 and 4 were amended. Claim 2 remains in the application unchanged. Reexamination and reconsideration of the claims are respectfully requested.

In the Office Action, the Examiner stated the following: "Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required." Applicants respectfully traverse. First, Applicants note that 37 CFR 1.33(a) does not deal with the requirements for an oath or declaration, and instead discusses the need for submitting a correspondence address and daytime telephone number with a new application, which Applicants have done. The requirements for an oath or declaration are instead listed in 37 CFR 1.63, which was revised in September 8, 2000 (effective November 7, 2000), pertinent portions of which are reproduced below (emphasis added):

#### **§1.63 OATH OR DECLARATION**

(a) An oath or declaration filed under §1.51(b)(2) as part of a nonprovisional application must:

- ...(2) Identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial;....
- (c) Unless such information is supplied on an application data sheet in accordance with §1.76, the oath or declaration must also identify:
  - (1) The mailing address, and the residence **if an inventor lives at a location which is different from where the inventor customarily receives mail**, of each inventor;....

As explained in MPEP §605.03 (emphasis added), "[e]ach applicant's mailing or post office address is required to be supplied on the oath or declaration, if not

stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. **Either applicant's home or business address is acceptable as the mailing address.** The mailing address should include the ZIP Code designation. Since the term 'post office address' as previously used in 37 CFR 1.63 may be confusing, effective November 7, 2000, 37 CFR 1.63 was amended to use the term 'mailing address' instead." Thus, unless an inventor's post office address (or mailing address) is different than his or her residence address, it need not be separately listed on an oath or declaration. Since a residence address has been provided for each inventor on the submitted Declaration, and each of the inventors do not have a separate mailing address, Applicants believe that the requirements for an oath or declaration have been fully complied with in the present application.

In the Office Action, the Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner noted that there doesn't appear to be any antecedent for a radius being between about 0.45 inch and about 0.53 inch and an height at about 0.0033 inch as stated in claim 3, as well as a radius being about 0.5 inch as stated in claim 4. Claims 3 and 4 were also rejected under 35 U.S.C. §112 with regard to the same limitations on the radius and height. In the above amendment to claims 3 and 4, these numbers have been changed to directly correspond with the numbers stated in the specification. Thus, the objection to the specification and the rejection of claims 3 and 4 under 35 U.S.C. §112 are believed to be overcome.

Claims 1-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hoffman, U.S. Patent No. 1,923,091 (hereinafter "Hoffman '091"). Applicants believe that these claims are allowable over Hoffman '091 for the following reasons.

Hoffman '091 shows an upper portion (5) of a bottle sealed with a crown cap (6). Applicants wish to direct the Examiner's attention to an attached "Exhibit A" which is a marked-up, enlarged copy of the upper portion (5) and crown cap (6) of Hoffman '091. As shown in Exhibit A, the upper portion (5) of the Hoffman '091 bottle consists of a convex locking ring portion having a first radius "R1" and a height "H"; a concave upper portion having a second radius "R2"; and a concave lower portion having a third radius "R3". Unlike Applicants' invention, the upper portion directly adjacent to the locking ring of the Hoffman '091 bottle is **concave, not convex**, and the radius "R3" of the lower portion directly adjacent to the locking ring is clearly **smaller, not larger**, than the radius "R1" of the locking ring.

Specifically, Hoffman '091 does **not** disclose or suggest Applicants' claim 1, with specific reference to the elements in bold type:

1. A container having a damage-resistant finish ring and an opening sealable by a closure member that is removable by a hook-type opener, comprising:
  - a) a locking ring on said finish ring, said locking ring comprising a convex outer surface having a locking ring radius and a height and extending from a first circumferential edge to a second circumferential edge;
  - b) **an upper convex outer surface portion on said finish ring adjacent to and directly above said locking ring**, said upper convex outer surface portion having a radius that is larger than said locking ring radius and a circumferential edge at an intersection of said locking ring and said upper convex outer surface portion; and
  - c) a concave outer surface portion on said finish ring adjacent to and directly below said locking ring, **said concave outer surface portion having a radius that is larger than said locking ring radius** and a circumferential

edge at an intersection of said locking ring and said concave outer surface portion;

d) wherein said locking ring has a relatively smooth outer surface, and wherein said intersection of said locking ring and said upper convex outer surface portion and said intersection of said locking ring and said concave outer surface portion are each relatively smooth, such that said hook-type opener may pass by said locking ring unimpeded upon removal of said closure member by said hook-type opener; and

e) wherein said locking ring radius and said height of said locking ring are sufficiently large to provide said relatively smooth outer surface, and said locking ring radius and said height are sufficiently small to retain said closure member on said container prior to removing said closure member with said hook-type opener.

In the Office Action, the Examiner has indicated that the dimensions of Applicants' locking ring are simply a matter of design choice. Applicants respectfully traverse. As explained in Applicants' specification, the relationships between the locking ring and adjacent surface portions, including the relative dimensions thereof, are novel and non-obvious in that they provide a relatively smooth, continuous surface portion (and, more specifically, smooth transitions between the locking ring and the upper and lower outer surface portions) which a hook-type opener can pass by unimpeded.

For at least the above reasons, Applicants believe that claim 1 is clearly allowable over the cited art. Claims 2-4 are believed to be allowable as depending from an allowable base claim, and further in view of the novel and nonobvious

combination of elements disclosed therein. Claim 4 has been amended to include the specific radii of the upper convex outer surface portion and the (lower) concave outer surface portion. The rejection of claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over Hoffman '091 is believed to be overcome.

### **Conclusion**

Applicants believe that all of the claims pending in the application (claims 1-4) are allowable over the cited art. Therefore, Applicants respectfully request that the Examiner reconsider the application and grant an early allowance. Should the Examiner have any questions, Applicants' attorney may be contacted at the telephone number listed below.

Respectfully submitted,

KLAAS, LAW, O'MEARA & MALKIN, P.C.

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